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DRAFT -- Dec. 22, 1995

**PHILIP MORRIS STATEMENT  
ON DENIAL OF FDA'S MOTION TO DISMISS CHALLENGE**

Today's court decision to deny the government's attempt to avoid judicial review of its illegal course of action allows the court to consider the central issue in this case: whether the FDA has any authority whatever to regulate cigarettes.

Our Constitution is based on the understanding that Congress makes the laws, the executive branch carries out those laws and the courts review the actions of the other two branches of government. The FDA, however, wants to ignore Congress, make its own law and shield itself from the scrutiny of a court. This it cannot do.

Over and over, Congress has expressly denied FDA the authority to regulate cigarettes. Even David Kessler recognized he had no such authority, that is until the Congressional balance of power shifted parties in the 1992 election.

Philip Morris is confident that this case will demonstrate that the FDA's regulatory effort ultimately has nothing to do with youth and everything to do with an abuse of regulatory power. In all likelihood, this case also will demonstrate that David Kessler has a broader, secret agenda of withdrawing cigarettes from the market.

Today's denial of the FDA's motion to dismiss allows this case to go forward and, more importantly, it gives the American people the opportunity to have these important issues decided soon.

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